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RESEARCH ARTICLE

‘We the People’ versus ‘We the Heads of States’: the debate on the democratic deficit of the European Union

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The Eurozone crisis has rekindled the debate on the democratic deficit of the European Union (EU). In this paper, the debate is reconsidered by contrasting the *modus vivendi* of ‘We the People’ in the USA with the *modus vivendi* of ‘We the Heads of States’ in the EU. It is demonstrated that many of the solutions to the alleged democratic deficit focus on how more voice can be given to ‘We the People’ on the input side, but that this goes against the functional logic of the EU system, thereby undermining its ability to govern. Instead, we argue that more attention should be given to how to increase output legitimacy, and a number of proposals are put forward. Such a reshuffling of the analytical focus is the best way forward to escape the current impasse in the debate on how to ‘fix’ democracy in the EU.

Keywords: democratic deficit; EU; input; output; legitimacy

1. Introduction

The Eurozone crisis has rekindled the debate on the democratic deficit of the European Union (EU) as an *elite*-dominated polity insufficiently attuned to be responsive to the needs and wants of ‘We the People’. We argue that this debate is misguided for discussing how politics and policy are conducted in, and through, the political system of the EU. This debate seems counterproductive for solving the EU’s problems. It shows too much concern for how people’s demands are voiced and represented in the political *decision-making* process and too little apprehension for how political authorities handle threats, such as global warming, and fiscal and economic meltdowns that confront the EU’s populations today. What should be taken into consideration from the onset is the fact that the EU and its democratic member states are originally designed and structured quite differently (Schmidt 2004).

The democratic nation state is first and foremost constructed to aggregate and integrate the conflicting interests of people into collectively binding decisions. Focus is on the input side of political processes, and outputs are considered in the shadow of inputs as a ‘technical’ means for protecting and serving the free voice and interests of ‘We the People’. The EU polity, in contrast, is an *elite* policy construct (Bang 2009). The output side manifests a highly politicised mode of governance that is targeted towards coping

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with the policy of risks, problems and challenges that confront the EU member states and their populations. The question of how political authorities articulate and perform policies that can do well for the population is from the onset placed before the question of how people acquire free and equal access to, and recognition in, the political *decision-making* processes. We repudiate that this doubling of ‘the political’ as concerning both, what we will call the *politics-policy* of ‘We the People’, and the *policy-politics* of ‘we the political authorities’, *ipso facto* manifests a process of democratic decay. EU’s primary task is not – as stated in the *Lisbon Treaty* – to represent people but to cope with the policy threats that its member states cannot handle themselves, cf. below. It is first to be measured by its contributions to improving the welfare and *well-being* of the EU populations and only second by its capacities to aggregate and integrate people’s interests. This is not to deny that input democratic concerns can, under certain given conditions, acquire supremacy in the EU policy-politics frame. It is merely to hold that input democracy, in this frame, is but one more important policy domain to be coordinated and directed in, and through, transnational multi-level governance (Jensen, Koop, and Tatham 2014). Hence, what we argue in this paper is that we should *de-emphasise* the normative discussion on how the EU hinders and undermines input democracy and instead focus on how it manages to empower and involve its populations in their own governance on the output side in ways that improve not only the EU system’s efficiency and output legitimacy but also the populations’ abilities to govern and take care of themselves. Generally, the EU is an instructive case to illustrate the need to reassess the relationship between political authorities and laypeople in their political communities. We will unfold this argument in the following. Our contribution is to link these two discussions.

1.1. Policy-politics as a remedy for politics-policy

What the majority of input-democrats consider deplorable – the autonomous ‘administrative’ capacity of, in particular, the EU Commission – we consider vital for studying the new kind of loosely coupled multi-level governance that is taking shape in all of the EU member states (Jensen, Koop, and Tatham 2014). This is generating multiple new modes of political steering and participation on the output side, locally, nationally, regionally as well as transnationally. Until recently, the EU has nearly always been criticised from the vantage point of democratic government in its member states. Rather, we consider the European Commission’s discursive practices of ‘policy-before-politics’ a remedy for avoiding the fact that conventional interest politics with its centralised decision-making mechanisms, unidirectional command-obedience relations and universal duty norms do undermine the creative and directive power of collective political *action* required for coping with all that which has to be done to improve the population’s welfare and *well-being*. In our view, we should stop thinking of political power solely in the negative as an omnipotent threat to freedom and equality.

Hence, what the advent, consolidation and development through the gradual ‘constitutionalisation’ of the EU polity through Treaty amendments and new legal principles sanctioned by the Court of Justice of the EU first of all illuminate is how conventional democratic government is becoming too rigid, ‘slow’ and bureaucratic for: (1) governing an increasingly complex and connective political system in an ever more interdependent world (Jensen, Koop, and Tatham 2014); and (2) re-addressing democracy towards the creation of new action-oriented publics and communities based on a mutual willingness to engage as well as a common capacity to make a difference (Hix 2005). The identification of politics

with a highly centralised form of government for exercising binding power over subjects prevents just this (Hix 2008). Whether empirically or normatively oriented, research that sets out from this negative political identification of power with ‘valid’ or ‘invalid’ coercion will almost automatically end up being negative in its interpretations of, and responses to, the many new forms of network governance and project politics that are developing without the formal representative and bureaucratic institutions of democratic government (Bang 2009). Gerry Stoker, for example, a leading spokesman for democratic politics-policy, conceives of the policy-politics of governance and project politics as manifesting a ‘flight’ from democratic government. It leads us nowhere but to ‘atomized forms of citizenship [meaning] that people often have only a surface engagement with political issues and complexities’ (2006, 11). Or as he also puts it (2006, 82):

Politics disappoints in part of because of the way it is designed. As a centralized form of decision making it is inherently controlling. To take part in politics is time consuming and challenging given the scale and quality of communication that is required. The outcomes of the political process are seldom clear cut and are often messy compromises.

In this view, if we do not consent to the ‘fact’ that ‘big’ politics is inherently controlling, time-consuming and messy, we are on the wrong instrumental and moral track. All new forms of governance and participation that do not orient themselves to the *reform* of the formal political institutions of centralised democratic government are, in Stoker’s view, not only predestined to fail; they are also *ipso facto* dismissed as signs of democratic decay.

The problem, as we see it, is that most critiques of EU’s democratic deficit follow Stoker’s narratives of democratic decay. They may be more deliberative, discursive and agonistic, and speak more about exclusion than atomisation (Hay 2006; Mouffe 2013), but they basically stick to the same narrative about obeying the democratic rules of the game and showing duty towards participating, at least as voters, in processes of collective decision-making. Even those new narratives that distinguish unified government from multi-level governance and the thick national political community from the thin EU *demos*, with its multiple irreducible identities and democratic traditions, do nevertheless, like Stoker, continue to identify democratic politics with people’s opportunities and possibilities for voicing their concerns over the allocation of values by centralised authority whether in, and through, formal government or associative civil society (Borras, Koutalakis and Wendler 2004). Indeed, input democracy must have the issue about how conflicting demands are converted into collectively binding decisions at its core. This is also why democratic government places, and must place, politics before policy. The fundamental question of *politics-policy* is:

How can people with different, competing and often opposed interests and identities acquire free and equal access to, and recognition in, the political decision-making processes of democratic government?

As Almond and Verba argued when developing their conception of the civic culture (1963), such democratic access and recognition relies on the social system’s ability to mix a subject culture for making individuals wont to passively obey democratic law with a parochial culture, in which people dutifully acquiesce to duty norms when pursuing the common good in social networks and an active participatory culture directed towards reaching consensus and keeping government effective and responsive to the needs and wants of

‘We, the People’. The kind of ‘civic culture’ that the EU needs, we will hold, is quite distinct from this old politics-policy one. In the EU’s new policy-politics culture, as we call it, a widespread acceptance and recognition of difference prevail. This relies more on a continuous problematisation of political authority than passive obedience; more on engagement norms in political networks than duty norms in social networks, and more on active participation in a multifaceted demoi and political action community than the kind of unidirectional political participation that is prompted by and/or oriented towards the state and governmental level (Bang 2010). To assume that persons who choose to get involved as, say, expert citizens or everyday makers (Bang 2010) outside the formal institutions are comparable to atomised citizens (Stoker 2006) is merely to overlook, how the people connect with engagement norms and political networks in the building of a pluriverse demoi as a loosely integrated political action community. The EU processes of policy formation and delivery have gone through many experiments and experiences with co-governance and citizen involvement since the White Paper from 2001 in which it was declared that (European Commission 2001):

Reforming governance addresses the question of how the EU uses the powers given by its citizens. It is about how things could and should be done. The goal is to open up policy-making to make it more inclusive and accountable. A better use of powers should connect the EU more closely to its citizens and lead to more effective policies.¹

One cannot say that the EU has proved successful in fulfilling in particular the goal of coming closer to its citizens on the output side. But one cannot blame it for not having tried out a variety of tactics and strategies for creating policy communities, partnerships and networks involving stakeholders from the private, public and voluntary domain in multi-level governance. A major reason why the EU has not managed to come closer to its citizens is that it has not been able to convince its member states and populations that it actually makes a crucial difference to the way policies are conducted in the nation state where policies institutionally and culturally have been placed in the shadow of politics as its ‘technical’, administrative instrument. The EU has failed to demonstrate the difference that its multi-level policy-politics make from the centralised form of government characteristic of politics-policy in its member states as a system that focuses on (European Commission 2001):

How are policies best articulated and performed in order to handle the multiple high-consequence risks that the EU populations confront in their everyday life? How can EU policy-politics help to improve the ontological security and thereby the general welfare and wellbeing of its populations?

There are many reasons why the EU has not succeeded in coming out with this crucial and irreducible policy-politics problematic. One is its lack of an effective and deliberating public sphere, including chronic and intensive mass media coverage of its policy cycle (Habermas 2008, 2012). It is only recently in the wake of the Eurozone crisis that national media are beginning to include an independent transnational dimension about EU policy and a more public focus on the EU’s initiatives for handling the crisis by improving its own discursive governance practices. But the most important reason is probably that EU policy is considered by the majority of politicians and citizens merely a dependent complement to the traditional representative political processes that go on in the nation state. As Stoker puts it very succinctly when identifying the core of democratic politics-policy (2006, 202):

The old rules of politics have not changed; politics remains about people expressing conflicting ideas and interests in order to rub along with one another.

The EU is well aware that this is how most of its nation states see politics. Article 1a in the *Lisbon Treaty* concedes this, stressing how ‘rubbing along’ in the face of ongoing interest and identity conflicts requires that:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.²

Article 1 is an indication of the growing pressures on the EU system for getting it in line with the politics-policy standards of representative democracy. However, if we proceed to Article 2, the real life and time of EU policy-politics as an ensemble of discursive practices for doing that which has to be done to make the EU populations’ everyday life at least a bit safer and better come to the fore (Article 1a):

1. The Union’s aim is to promote peace, its values and the well-being of its peoples.

What this article discloses is how protecting and serving the voice of ‘We, the People’ is only one policy issue to be conducted by the political authorities who in day-to-day political life are accepted and recognised as those who have the direct responsibility and power to handle the population’s multiple existential challenges. The latter is at the core of policy-politics, which in its democratic version is dedicated to balance the reciprocal relations between political authorities and non-authorities for the sake of matching the former’s powers to make a difference to the latter’s concrete practice of their freedoms.

The policy-politics issue about how to improve a population’s ontological *security* requires some different forms of governing and participating than those associated with the politics-policy problem of how the sovereign authority control its *territory* in, and through, its centralised allocations of values. The modus vivendi of the nation state is the voice of ‘We the People’ and their many competing and conflicting interests and values; the EU’s is the deeds of ‘We the Heads of States’ and their transformative capacities to articulate and perform authoritative policies (Majone 1998; Scharpf 2003, 2007; Schmidt 2006).

The troubling fact is that research into the EU political system has not paid much attention to the implications of this difference between ruling a territory and a population respectively. Both models have their pros and cons. The ‘input’ democratic model links to the sovereign’s control of its territory. This requires a politics-policy that is relatively slow, formal and resistant towards change, but which ensures that political decisions are openly discussed and negotiated for the creation of input legitimacy. The ‘output’ governing model that is tied to handling immediate risks threatening the population’s ontological security is faster, and more informal, more expertise driven, and more change-oriented, but it tends to silence the voice of ‘amateurs’ and bypass the formal institutions when needed (Bang 2011). Both models should be regarded as key elements in the so-called democratic deficit debate of the EU. But in theory as well as in actual fact, it is still only the politics-policy model that really counts. An indication hereof was the campaign launched by the European Commission under the headline of ‘openness, subsidiarity, democracy’ in the aftermath of the Danish ‘no’ and the French ‘nearly no’ to the Maastricht Treaty in 1992 (Dinan 2010). We claim that the overwhelming focus on

politics-policy in the EU democratic deficit debate does not only undermine the EU's ability to produce the necessary and legitimate outputs. It also hinders it from developing alternative ways of involving laypeople in the articulation and delivery of policies and thereby generating more throughput legitimacy, that is, increasing efficiency, accountability and transparency of the activities of both regime institutions, political authorities and laypeople in their political communities (Schmidt 2012; Bang 2009). This might be the explanation for the increasing dissatisfaction among the peoples of the EU member states with the EU as such (Pew Research 2013).

The argument of this paper is presented as follows. Section 2 outlines the basic distinction of input versus output polities. In Section 3, the *modi vivendi* of 'We the People', which characterises the USA, and 'We the Heads of States', which characterises the EU, are contrasted and we contend that attempts to change the modus of the latter is likely to fail. Section 4 takes stock of the democratic deficit debate and shows why there is no panacea for the EU's difficulties as long as we keep focusing on input democracy. In Section 5, the implications of our analysis are discussed, while Section 6 argues that the output side should be brought back in, and a number of tentative solutions are given for how the EU can improve its legitimacy in times of crises and beyond. Section 7 concludes.

2. Input versus output polities

What is today known as the EU took shape in the first place because the nation states needed a transnational system that after the Second World War could secure lasting peace, facilitate economic competitiveness and growth and enhance the welfare and well-being of the populations (Marks 2012). The EU was at the outset crafted as an output-oriented system for handling those challenges that its member states could not deal with themselves. So when discussing the EU, we should carefully distinguish the core issues of an input-driven and an output-driven polity from one another (Bang 2011; Easton 1965; Scharpf 1999; Schmidt 2012):

Input democracy or politics-policy: How are people with different, often conflicting, interests and identities to be assured free and equal access to and recognition in the political decision-making processes?

Output governance or policy-politics: How do political authorities in the face of unceasing risk and change manage to articulate and implement policies that reduce risks, meet challenges and solve problems in ways that enhance the general well-being of the population?

The dilemma today is that both the EU and its member states seem increasingly bewildered as to how to cope simultaneously with these two loosely coupled issues of political life. The logics and values of democracy and authority are continuously blurred. This is first and foremost seen in the debate on the democratic deficit (Schmidt 2012). The political elites in the member states have in the last decades persistently tried to push the EU institutions in a more input democratic direction. This push for input democracy was particularly intense until the financial and Eurozone crisis escalated, and the 'strongest' among them had to concentrate their energies on addressing the EU's life-threatening issues on the output side. In the EU debate, the input-output dilemma is today increasingly dealt with by replacing Scharpf's (1999) distinction between 'input legitimacy', which is responsiveness to citizen concerns as a result of participation *by* the people, and 'output

legitimacy', which is assessed in terms of the effectiveness of the EU's policy outcomes *for* the people with a notion of 'throughput legitimacy'. As Schmidt writes (2012, 1):

Throughput legitimacy builds upon yet another term from systems theory, and is judged in terms of the efficacy, accountability and transparency of the EU's governance processes along with their inclusiveness and openness to consultation with the people.

However, assessments of efficacy, accountability and transparency can be both about how 'the people's' conflicting demands are converted into collectively binding decisions, and how the political authorities' formulations and programming of policies are transformed into collectively binding actions. Thus, the crux of the matter is not whether democratic governance is 'for', 'by' or 'with' the people but whether it is 'of' the people or 'of' the political authorities. Take the example of consultation with the people in the previous quotation.

In an input-driven model, consultation will be about how 'We the People' consult political authorities regarding how to optimise our possibilities for attaining free and equal access to and recognition in the decision-making processes. Here, consultation is part of conventional deliberative democracy models: two well-known ones are those of Habermas (2012) and Dryzek (2006). In contrast, in many EU studies of democratic governance, consultation concerns the political authorities' consultations with actors (predominantly professionals) from the private, public and voluntary domains about how to optimise the EU system's capacities to deliver policies that improve the welfare of the population(s). New deliberative policy and governance models, dealing explicitly with this policy-politics of political authorities (Fischer 2003; Hajer and Wagenaar 2003), are important for creating, consolidating and further developing a well-functioning democratic polity, as are the old representative, participatory and deliberative politics-policy models of 'We the People'.

Throughput democracy is tied to another new political construct in the EU debate, namely the conception of the EU as a transnational *demos* that is distinct from both a federal state and a sovereign state, because it comprises a union of peoples who govern together, but not as one (Nicolaidis 2012, 16). This construct is an important development for showing the difference between a transnational *demos* founded on the reciprocal acceptance and recognition of difference and a state-bound *demos* founded on normative agreement and a deep sense of belonging (Bang 2009). The EU polity should indeed be studied and assessed from the 'inside-out', rather than by economic and social models approaching it from the 'outside-in'. Before we begin to assess the connection between the transnational *demos* that construct and are constructed by it, we must have an idea and a conception of how they are affected by the voices and deeds of political authorities and 'ordinary' people, respectively.

The political regime of the EU may be regarded as structuring and as structured by the situated interaction between the EU political authorities and the 'ordinary' members in the *demos*. An escalating problem today is that we do not keep the logics of the *demos* and the political authorities distinct, neither in theory nor in practice. The result is that laypeople in the *demos* are disconnected from political authorities to an extent that it undermines the action capacities of both parties, with the southern part of the EU today as the most obvious example. In our view, the construction of a genuinely democratic regime relies fundamentally on the difference that its *demos* and political authorities can make. The one cannot persist without the other, which is exactly why difference is so

central to creating viable relations of mutual trust and recognition between ‘We the People’ and ‘We the Authorities’ that can establish a virtuous circle of growing throughput, output and input legitimacy.

3. ‘We the People’ vs. ‘We the Authorities’

The modus vivendi of the EU becomes apparent when contrasting the *Lisbon Treaty* with the *United States Constitution*. We compare a constitution (the American constitution) with a ‘constitutionalised’ text (the *Lisbon Treaty*), cf. above (Hix 2005, 121–128). The first paragraph from *The American Constitution* demonstrates what representative democracy is about:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.³

Representative democracy springs from and is shaped after this free and equal voice of ‘We the People’ which has created the Constitution. US politics begin and end with the People.⁴ The formal political institutions are first of all designed to protect and serve the People’s interests and common identity. Overall, the American constitution is as ‘tight’, ‘small’, ‘strong’ and ‘crystal clear’ as a democratic constitution can be. It is clearly addressed to provide every American citizen free and equal access to and recognition in the political process. Input politics is placed before policy outputs which are considered as ‘mere administration’, as American political scientists also, showing reverence to the Constitution, have conventionally defined the hegemony of input politics in the American political system (Almond and Verba 1963, 14). Policy articulation and delivery are regarded as technical rather than political; they constitute the last link in the representative chain of governing the intrinsic relationship between ‘The civic culture and the open polity’ (Almond and Verba 1963, 7). In conclusion, the US type of federalism takes its departure in the people and places political primacy in the Senate and House of Representatives. It presumes the existence of a unified people with a deep sense of belonging upon which the entire American system of representative government is founded. In his second inauguration speech on 21 January 2013 President Obama provides an example of this strong American rhetoric of ‘We, the People’⁵:

Each time we gather to inaugurate a President, we bear witness to the enduring strength of our Constitution. We affirm the promise of our democracy. [...] What makes us exceptional – what makes us American – is our allegiance to an idea, articulated in a declaration made more than two centuries ago: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness.

It is difficult to envision how the EU would be able to develop such a common national identity and parliamentary primacy. Its core actors are states backed by their citizens’ strong sense of belonging, which it would be utopian to think could spill over to the EU system in any foreseeable future. This is probably why the *Lisbon Treaty* – a 272-page document, which is hopeless for a non-expert to navigate with all of its revisions and

amendments of earlier treaties, does not begin with ‘We, the people’ but with ‘We, the Heads of States’:

PREAMBLE

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE REPUBLIC OF BULGARIA,

THE PRESIDENT OF THE CZECH REPUBLIC,

[Etc.]

DESIRING to complete the process started by the Treaty of Amsterdam and by the Treaty of Nice with a view to enhancing the efficiency and democratic legitimacy of the Union and to improving the coherence of its action, HAVE RESOLVED to amend the Treaty on European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community.

This Preamble does not portray a union in which, as President Obama’s inaugural speech highlights, ‘You and I, as citizens, have the power to set this country’s course’. In the EU, the institutions set the course, not the underlying political culture. Furthermore, the Preamble indicates how the EU system, distinct from the American one, primarily is designed to identify and handle the common policy risks, challenges and interdependencies that the member states confront (policy-politics). The crucial difference seems to be that the voice and interests of ‘We, the People’ are not the unified core from which all institutions and policies spring, but rather one more important policy issue and challenge to be actively dealt with: ‘the people’ only enter into the picture after the Heads of States have designated their plenipotentiaries⁶:

PREAMBLE

1) [...]‘DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law.

The Preamble does admit to the importance and significance of ‘inputs’, but merely promises to be ‘drawing inspirations’ from its European intellectual sources. This tendency to emphasise how the EU system primarily operates in terms of its political authorities and their capacity to handle complex risks and issues that are both opaque, ambiguous and multi-levelled in nature comes out clearly in the *Lisbon Treaty*’s opening paragraph⁷:

Europe is not the same place it was 50 years ago, and nor is the rest of the world. In a constantly changing, ever more interconnected world, Europe is grappling with new issues: globalisation, demographic shifts, climate change, the need for sustainable energy sources and new security threats. These are the challenges facing Europe in the 21st century. Borders count for very little in the light of these challenges.

Who is ‘Europe’ here, if not the political authorities? The focus is unambiguously on how political authorities manage to act on an opening or closing policy window (policy-politics) rather than on how to serve the common good of ‘We, the People’ (politics-policy). The democratic question of how to secure equal freedom is certainly

treated as significant and important, not as an abstract, unifying collective goal, but as merely one big policy challenge and problem among several others. This is confirmed by Article 2 of the *Lisbon Treaty*:

- (1) The Union's aim is to promote peace, its values and the well-being of its peoples.
- (2) The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
- (3) The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy [...]

This is policy-politics more than politics-policy. It is about how political authorities, often in collaboration with a variety of different stakeholders from the private, public and voluntary domains, manage to identify and handle imminent policy challenges and problems. It is not politics-policy *by* the people but policy-politics *for* the population, often in collaboration with relevant stakeholders or expert citizens, as one may call them (Bang 2010). It is not the voice of 'the people' that stands out sharply in Article 2 of the *Lisbon Treaty*. The questions raised are predominantly tied to how political authorities should operate and perform in an accountable manner on the output side. They are both abstract and empirical in nature, illuminating how much we need a new discussion of how to mediate between conventional input-driven, national politics-policy and new output-driven policy-politics in a multi-level system, with the EU as perhaps the best example. For example, how do we decide when and how the voice of 'We, the People' must be lowered in order for political authorities to deal immediately and competently with an acute wicked issue or high-consequence risk like climate changes? Inversely, in which situations must concerns for peoples' free and equal voice be allowed to overshadow any and all policy risk and challenge?

It is to us the lack of a distinction between 'inputs' and 'outputs' or politics-policy and policy-politics that haunts the democratic deficit debate in the EU. A federalist EU might undermine the unique traditions for policy articulation and delivery developed by multi-level EU policy-politics authorities and their associates. It might even result in the same kind of stalemate between Congress and Presidency that the US politics-policy system faces today. Inversely, EU policy-politics *for* the people should be extended to comprise a genuinely participatory policy-politics *of* and *with* the people, extending in innovative ways the input-driven politics-policy by the people to the output side of political processes.

4. The democratic deficit debate in the EU

4.1. *Elite (Schumpeterian) democracy vs. Liberal (Madisonian) democracy*

The question of the democratic state of the European polity is not new. It has preoccupied academics working with the EC/EU for more than three decades (Marquand 1979; Featherstone 1994; Mény 2003; for an overview see Zweifel 2002; Chryssochoou 2007). Despite the considerable scholarly attention that has been given to the question over the years, no conclusive answers have emerged. The literature is divided on the issue of the extent to which the EU suffers from a 'democratic deficit' and the nature of it. Much of

Table 1. The Schumpeterian and Madisonian take on democracy in the EU.

Democracy	Model	Claim
Elite (Schumpeterian)	Liberal Intergovernmentalists – government for the people (input)	The EU has demonstrated its significance and relevance as a regulatory system for making use of bureaucracy as an effective ‘fourth power’ for overcoming market failures.
Liberal (Madisonian)	Electoral Party Democrats – government of the people (input)	Democratically elected national governments dominate the EU decision-making process but transnational parties are taking form.

the democratic deficit debate can be traced back to the tension between Schumpeter’s elite democratic model and Madison’s liberal democratic model:

Elite democracy: that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote. (Schumpeter 1976, 269–270)

Liberal (Madisonian) democracy: focuses on the prevention of the abuse of power by a system of checks and balances rather than giving a say to people. (Thomassen 2009, 6)

In both models, the underlying logic is the input-driven one of ‘We the People’. Both of them revolve around the question of how best to represent people with diverse interests. At the same time, however, they both express a negative belief in people as being capable of engaging in democratic government except at election times. Discussions of the political activities of ‘We the People’ between elections and their consequences for democratic decision-making receive nearly no attention, though the issue of national identity does play a role in silently being taken for granted by both models as the ‘clay’ that guarantees an underlying and widespread permissive consensus. At the same time, collective decisions are supposed to be made ‘for’ and, in the Madisonian model, also ‘of’ the people, not ‘with’ and ‘by’ them. Neither model extends beyond the level of formal political actors and institutions. One simply discusses the minimal conditions for input democracy. Today, the original discussion can be found in the democratic models of liberal intergovernmentalists and electoral party democrats in the EU as illustrated in Table 1.

Both models are about representing individual, collective and national interests. The liberal intergovernmentalists basically consider the Commission to be a centralised form of administration that is an agent of the nationally and formally elected heads of state and government that make up the European Council (Moravcsik 1993). The electoral party democrats, in contrast, are more concerned with building up viable formal representative institutions modelled in particular after the USA (Hix 2008). The discussion of democratic deficit grows out of these two minimal democratic politics-policy models.

4.2. The democratic deficit debate

The notion of a ‘democratic deficit’ is associated with the vocabulary of accountancy where one records revenues and expenditures, which are added together in order to get the result.

This is, however, not a straightforward task when it comes to democracy. There are at least two problems entailed in scoring a political system's democratic status. First, one will have to decide what counts as a 'democratic plus' and a 'democratic minus'; and second, one will have to weigh each up, i.e., how big a 'democratic plus' or 'democratic minus'?

When reviewing the literature on the democratic deficit it is clear that the standards used to evaluate the EU are often implied rather than overt. The use of implicit standards of democracy prevents a fruitful debate between different positions and leads to the hitherto inconclusive results in the literature. Nevertheless, it is possible to uncover the implied democratic standards used in different articles by starting with the 'result' and then moving backwards in the line of reasoning. The remainder of this section will be devoted to uncovering the implicit standards in some of the literature.

The literature on the democratic deficit can be separated into different groups. A key distinction can be drawn between studies arguing that a democratic deficit exists (Lord 1998; Siedentop 2000; Føllesdal and Hix 2006; Hix 2008) and studies which emphasise that it does not (Majone 1998, 2006; Zweifel 2002; Moravcsik 2002). Within the literature that concludes there is no democratic deficit, one can distinguish between two lines of argument: the first train of thought emphasises that by comparing democracy in the EU with democracy in other democratic polities, one finds that the former is not less democratic than the real-world benchmarks. From a qualitative perspective, Moravcsik (2002) rebuts five common claims about the democratic deficit by arguing, based on an analogy with existing advanced democracies, that the EU is constrained by 'constitutional checks and balances; narrow mandates; fiscal limits; super-majoritarian and concurrent voting requirements; and separation of powers' (603). From a quantitative perspective, Zweifel (2002) comes to the conclusion that 'the EU does not suffer from a democratic deficit significantly greater than that of the most liberal democracies' (834). The second line of argumentation understands the EU as a special entity that should not be evaluated against existing democratic standards (Majone 1998, 2005, 2006) and finds that the EU is legitimatised through its capacity to solve problems.

Within the literature that points to a democratic deficit, scholarly texts can be divided according to their diagnoses of problems and suggested treatments. Lord's (1998) book on *Democracy in the European Union* is one of the first attempts to make a comprehensive evaluation of the EU's democratic situation. Lord argues that a democratic deficit emerges from the combination of an intergovernmental and supranational approach to democratise the EU. In his book from 2000, Siedentop argues that there is an imbalance in the EU that favours economics. He prescribes a constitution for the EU to set out its goals, the limits to its powers, and the respective powers of the member states. In their 2006 article 'Why There is a Democratic Deficit in the EU', Føllesdal and Hix have responded to Majone's and Moravcsik's analyses. In essence, Føllesdal and Hix conclude that there is limited political contestation over the EU's policy agenda.

Føllesdal and Hix point to the one-sided nature of Moravcsik's position. He evaluates the EU against the elements of the *Liberal Madisonian model of democracy* that emphasises 'balanced government' where power is dispersed in order to prevent tyranny on the part of a single actor, and where consensus is needed to reach common decisions. In Zweifel's study, there are no hidden assumptions about democracy, as he takes the de facto application of the USA's federal system and Switzerland's consociational system as his benchmarks.

Majone perceives the EU as a regulatory system that has been assigned specific tasks and relies on expertise, procedural rationality, transparency and accountability as sources of legitimacy to perform those tasks (Majone 1998, 28). Lord (1998) is in opposition to Majone's (1998) postparliamentarian understanding of democracy, as he builds on a deliberative model where the citizens' engagements in discussion over public affairs form the cornerstone. Siedentop (2000) also stresses deliberation, but his underlying yardstick is more in line with a federal model. Føllesdal and Hix (2006) build their arguments on an Elite (Schumpeterian) model of democracy that attaches great importance to the ability of citizens to pick their governments by injecting their preferences into the political system through direct elections.

It follows from the discussion above that the debate on the democratic deficit is mostly between different models of democracy and that there is no one common understanding of whether there is a democratic deficit and, if there is, what this comprises and how it should be remedied. Instead, various understandings of the democratic deficit exist, as the diagnoses and potential solutions offered are contingent upon the democratic model(s) being followed. Thus, the notion of a 'democratic deficit' is an 'empty category' that can be filled out by everyone who finds the way in which the EU works unsatisfactory (Mény 2003, 8–9).

A problem with several of the diagnoses above is that they give the impression that the democratic deficit can be objectively identified and equalised by altering the EU. However, this does not take into account that most democratising beliefs entail trade-offs between different traits of de facto democratic principles. An instructive example is the difference between the Elite Schumpeterian model and the Liberal Madisonian model presented above. Moving closer to the Elite (Schumpeterian) democratic model by politicising the EU, as suggested by Føllesdal and Hix (2006), will decrease the Liberal (Madisonian) elements of the EU system. This will replace the consensual political culture with a more adversarial one, which might, as suggested by Bartolini and Hix (2006, 30), create unmanageable tensions and conflicts (see also Majone 1998; Scharpf 2003, 2007; Schmidt 2006). What one may perceive as the right kind of medicine to help cure the democratic deficit, others may view as a poison that increases the democratic problems. As a consequence, one must pay more attention to the potential trade-offs ones proposed solution will have in relation to other democratic models.

4.3. A third way: beyond the democratic deficit debate?

The discussion of the EU's 'democratic deficit' has predominantly had the nation state and its various modes of democratic government as its yardstick. As Cheneval and Schimmelfennig note (2012, 4), the EU has continuously been blamed for its lack of 'majoritarian (Westminster) parliamentary democracy (Lord and Beetham 2001), a lack of a pre-political "Volk" (Kielmannsegg 1996), a lack of centralistic statehood and universal "citoyenneté" (Manent 2007), or a lack of direct democracy (Frey 1996)'. In addition, it is also blamed for its lack of both a media public and a civil society public as well as for its lack of deliberative processes (Habermas 2008). However, in recent years, we have seen a shift in the discussion of EU democracy and democratisation. The focus is no longer on how the EU fails to live up to the empirical and normative standards of conventional democracy in the nation state. Rather, a new debate is emerging which takes its points of departure from emphasising the substantial differences between the EU and the nation state (Cheneval and Schimmelfennig 2012; Nicolaïdis 2012). The EU is:

- not a uniform state but a complex multi-level system of governance (Marks 2010; Jensen, Koop, and Tatham 2014).
- not a unified government but a multi-tiered system of government (Leibfried and Pierson 1995; Weiler 1995).
- not characterised by the left/right axis as the dominant cleavage but also by the integrationist/non-integrationist cleavage.
- not a ‘thickly’ integrated demos but a ‘thinly’ interconnected and polyvalent *demos*.

Stressing intrinsic differences like these, two new positions in the democratic debate about the EU emerge: a gradualist and a transformationalist model (Cheneval and Schimmelfennig 2012). The gradualists state that the EU can find a third way between nation state and transnational and global governance that is still based on the notion of one single *demos* governed by a unified, effective and legitimate form of domination, though it at the same time celebrates cultural and institutional difference, power sharing and public negotiation and deliberation. The transformationalists, in contrast, argue that nation state democratic government cannot be reproduced and that one must give up the attempt to turn the EU into a unitarian federalist system like the USA (Cheneval and Schimmelfennig 2012, 3–4).

The integrationist/non-integrationist cleavage in the EU here takes priority over that of the left/right division. Both models acknowledge that the EU is characterised by both of these cleavages, but whereas the transformationalist position is distinctly non-integrationist, the gradualist one is constitutively integrationist. Both leftists and rightists can find a home in either model, but they must choose between following an integrationist or non-integrationist path on the level of both political culture and political regime. On this dimension, they cannot both have their cake and eat it.

There are many indications that the transformationist non-integrationists have a point. Nation states and national identities clearly dominate the EU. Only about 15% of the EU population identify themselves primarily as Europeans, and most of these 15% belong to the most educated and wealthy classes (Fligstein 2008). In addition, the EU is highly fragmented with regard to collective identity, has a very underdeveloped civil society public sphere, a lowly autonomised parliament and a strongly politicised administration (Habermas 2012; Nedergaard 2006). Whereas these facts all look problematic from the vantage point of democratic politics-policy, they are quite understandable, and to a certain extent necessary seen in light of policy-politics. Governing for the sake of improving the welfare and well-being of populations is distinct from governing the aggregation and integration of people’s values, interests and preferences (Majone 2006). Likewise, participating in improving the articulation, performance, acceptability and legitimacy of public or social policies requires something different from participating in the conversion of conflicting demands into consensual decisions. Both aspects of governing and participation are of paramount importance and significance, but they should not be conflated. However, the lack of acceptance of the transformationist non-integrationist view has created a situation where the ongoing pressures for democratisation of the EU threaten to undermine its capacity to identify wicked issues and deliver solutions to the big risks, problems and challenges that confront its populations on the output side. What is worse, it also undercuts the unique policy-politics traditions in the EU from being applied to facilitate and guide the formation of a strong EU *demos* that does not only consist of output *for* laypeople and input *by* laypeople but in *withinputs of* laypeople from inside the political system itself. These

may in turn inspire the development of new kinds of *throughputs* that link inputs with outputs in transparent and accountable manners via new forms of policy-politics consultation, public space building and co-production, guaranteeing that policy articulation and delivery are as much as possible *with* laypeople.

EU's output dimension of legitimacy has usually been analysed as being *for* the people and thereby as linked to the performance criteria of political authorities and the regulatory regime only. The thesis is that high performance accountability, together with the capacity of governance mechanisms to effectively take a regulatory role, generates high output legitimacy (Mena and Palazzo 2012). The notion of *demos* indicates that output legitimacy links as much to the capacity of ordinary citizens inside the political system to engage in articulating and solving common policy problems or concerns as to political authorities and the regime (Easton 1965, Chapter 11; Bang 2009). There seems to be a great potential in the EU for involving laypeople actively in policy-politics from the 'inside-out', so to speak. This would enable the creation of a *we*-feeling among laypeople in the EU system that they share in a political division of labour and that they can and will understand how to employ this role to make a real difference to policy-making and implementation. This involves a different notion of community than that of civil society's unified and normatively integrated social community, linked as it is to the pursuit of a common good or collective interest (Easton 1965). A political action or project community cannot function as a normatively uniform entity, because it relies on its members' reciprocal acceptance and recognition of each other's differences. This is precisely why *demos* and *demos* should be conceptually and practically distinguished from one another. *Demos* operates primarily in terms of citizens' belief in the normative validity of the formal political institutions (input legitimacy for the regime) and their feeling of duty to obey democratic rules and regulations. *Demos*, in contrast, is driven by citizens' belief in the significance and relevance of being able to act in common and to continuously problematise and scrutinise the ways policies are authoritatively articulated and allocated by political authorities. If the EU political authorities would take the lead in creating better frames and opportunities for laypeople to engage in policy articulation and delivery from below in their *demos*, both output legitimacy and throughput legitimacy would take on entirely new dimensions. New normative criteria would come to the fore for judging the efficacy, accountability and transparency of both political authorities and laypeople in their *demos* as well as their reciprocal inclusiveness and openness to engage in policy-politics cooperation and deliberation with one another for the sake of making life better for the populations (cf Schmidt 2012). In this way, the EU system could not only gain a more complex and comprehensive form of output legitimacy than today. It could begin to act as mediator of policy-politics and politics-policy and in this way create a positive circle between input legitimacy, throughput legitimacy and output legitimacy.

5. Discussion

Essentially, the discussion of democracy in the EU is grounded in approaches to state and nation as requiring a representative form of government oriented towards protecting and serving the interests and national identity of 'the people'. However, the EU was originally established to cope with common risks, problems and concerns, above all those of securing lasting peace and economic growth (Marks 2012). Trying to force the EU to reconstruct itself in terms of the democratic logic of 'We the People' may very likely not only undermine its own policy-politics logic of 'We the Political Authorities', and thereby

its capacities to deal in a politically efficient way with those high-consequence challenges that its member states cannot cope adequately with themselves (Majone 2006; Bartolini and Hix 2006). It will also hinder the EU from bringing laypeople back in as creatively and critically engaged in policy-making and delivery from the bottom-up in their *demoi*. The latter, we have argued, will enable a positive circle of support where throughput legitimacy produces output legitimacy producing input legitimacy.

In the policy-politics logic (as we can read from the *Lisbon Treaty*) democracy is but one more, although extremely vital, policy field or domain that has to be attuned to the requirements for 'good governance': that is, governance that is targeted towards improving the ontological security of the EU populations. For example, the EU has a site concerning how citizens can have their say on EU policies (http://europa.eu/policies-activities/have-your-say/index_en.htm). One can engage in the *European citizens' initiative*, allowing one million EU citizens to participate directly in the development of EU policies, by calling on the Commission to make a legislative proposal. Furthermore, when the Commission starts working on a new policy initiative or revises existing legislation, one can usually be involved in public consultation. These modes of arrangements are initiated in the policy-politics mode rather than the politics-policy one: they are predominantly oriented towards engaging in influencing how the EU 'administration' articulates and performs EU policies. They are not at all targeted towards maximising 'We the People's' free and equal access to and recognition in the decision-making processes. This may be a contributory reason as to why the EU's success with involving 'ordinary citizens' in such initiatives has been far from overwhelming. But a more obvious reason is that the initiatives are not primarily put up for 'ordinary citizens' but for 'professionals' and 'experts'. They are not genuinely *of* and *with* laypeople but first of all for the people.

EU law takes precedence over national law and is to be applied in a uniform manner in all the member states, meaning that this law will often clash with national law for securing the equal freedom of citizens, such as when the rights of immigrants are violated by democratic rules, procedures and conventions that treat them as 'non-citizens' and thus exclude them from access to, and recognition in, the system of rights for protecting and serving the values, interests and preferences of 'We the People' (Weiler 1995).

If we begin to pay more explicit attention to the EU as a policy-politics system for improving people's well-being and for involving laypeople, both as 'amateurs' and 'professionals', in the articulation and performance of good governance by their political authorities at all levels from the Commission to the smallest local administration, we have to dispense with the dominance of the 'We the People' perspective. If we are to cope with such imminent challenges as an economic crisis or climate change, we have to create an EU *demoi* that can engage many more laypeople in EU policy-politics. Otherwise, it is difficult to see how Europeans can ever become able to handle the multiple policy risks that confront all Europeans in their everyday lives. Yet, when discussing politics in the EU, we nearly always fall back into the interest rather than necessity-driven framework of politics-policy and thus into the debate of the EU's democratic deficits. However, the democratic deficit debate is a misnomer for assessing the relationship between political authorities and laypeople in their political communities in the EU. It reduces this relationship to an input-prompted one for examining how conflicting demands are converted into consensual decisions, thereby neglecting the output dimension, which is about how to turn collective decisions into concrete policy actions that are both acceptable to laypeople and are also regarded as legitimate for doing what has to be done.

6. Bringing the output side back in

If there is no panacea for the democratic deficit, how can the legitimacy of the EU be increased? The discussion in the previous sections indicates that reaching a democratic optimum that would satisfy the different democratic beliefs is an illusion. However, this does not mean that the discussion about the EU's democratic merits and how the system should be changed should cease. Moving past old democratic concepts and developing new ones may be beneficial (Cheneval and Schimmelfennig 2012; Nicolaïdis 2012). Another option, we have argued, is to focus less on the strict notions of democracy and more on how to increase legitimacy. We have drawn a distinction between input, output and throughput legitimacy (cf. Scharpf 1999; Schmidt 2012). Whereas scholarly attention has focused on how to increase the input legitimacy of the EU system, much less concern has been given to increasing the system's throughput and output legitimacy. Focussing on the latter challenge the input debate about the EU from those who took their point of departure in Schumpeter or Madison to those who speak of the EU as a polyvalent *demos* and action community. It indicates that public discussion of and engagement in EU policy articulation and delivery may be more significant and relevant for closing the gap between political authorities and the people in the EU.

From a practical perspective, the Commission focused on policy delivery under the headline 'Europe for the Citizens' in order to increase output legitimacy after the fall of the Constitutional Treaty in 2005. The idea behind this strategy was that by delivering policies that most citizens favour, the EU will increase its output legitimacy. An illustrative case was the adoption of regulations on mobile roaming, which set maximum standards for how much operators are allowed to charge for calls and data transfer between different member states within the EU.⁸ Based on lessons from Europeanisation literature, this strategy seemed likely to fail. The Europeanisation literature points to the fact that most legislation coming from the EU undergoes an alteration process at the national level (Graziano and Vink 2008), which makes it difficult for the citizens to identify the EU as the 'producer'. This is related to the 'scapegoat explanation' according to which national actors will claim credit for popular decisions taken by the EU but blame it for unpopular decisions (Schmidt 2006). While examples of national actors' use of this strategy exist, the problem is for the most part not due to 'claiming success' and 'shifting blame' but to the long and winding process from when a decision is taken at the European level until it is implemented and delivered at the national and local level. Bringing laypeople back in as creative policy-politics actors would not only improve the likelihood that more EU citizens will identify with EU as 'producer', it could also add significantly to building reservoirs of both input, throughput, and output legitimacy. Europeanisation of the policy-politics dimension has implications for legitimacy in the EU, and this is an under-explored topic. Greater attention should be paid to how the EU can increase its legitimacy by better taking the 'patent' of the legislative and community products it produces.

What the history of the EU seems to reveal is that outputs are as political as inputs, and that a big challenge for democracy and democratisation today is to reflect on how they can be extended to constructing new participatory practices on the output side of political processes. The EU does comprise a variety of new mechanisms of network governance and deliberative policy articulation and performance that seem worthy of much more discussion. Actually, policy-making and implementation in the EU generally seem much more transparent than is the case in most of its member states (Heritiér 1999).

Although most discursive policy practices in the EU have been called into being by ‘We the Political Authorities’ rather than by ‘We the People’, they seem to comprise a vast potential for developing new, more balanced participatory relations between political authorities and laypeople on the output side, which are attuned much more directly for handling the various challenges that we all meet in our everyday life (Schmidt 2012).

7. Conclusion

This paper has reconsidered the democratic deficit debate, which has been rekindled by the economic crisis. Its most important claim is that the EU is founded on an output-oriented governing model of policy-politics that primarily aims to handle challenges that member states are not able to deal with on their own.

Comparing the *US Constitution* with the *Lisbon Treaty* substantiates this claim, as it reveals the two very different approaches to democracy implicit in these texts. The US approach of ‘We the People’ is focused on input (politics-policy) in securing the people legitimate governance that allows them to pursue their individual and equal freedoms. In contrast, the EU approach of ‘We the Heads of State’ is focused on output (policy-politics) in securing the well-being of the population. The debate on democratic deficit in the EU expresses an input-driven logic of ‘We the People’. It has its origins in the Schumpeterian model of elite-democracy and the Madisonian model of liberal democracy that are both founded on a distrust of the ability of ‘the masses’ to have a say in decision-making. Furthermore, the notion of democratic deficit suggests that democracy is something that can be scored in a similar way to an arithmetical problem, even though the scoring in this case inevitably depends on the standards one implicitly applies.

As the analysis shows, the debate on democratic deficit is first and foremost one on different democratic beliefs, which is why it can come as no surprise that scholars disagree on both the diagnosis and the appropriate prescriptions. The actions that have actually been taken to address the democratic deficit compromise a range of different approaches, just as the EU itself can be argued to be a compromise between different foundational visions. Although that might not in itself be bad, it has the unfortunate side effect, inevitable in a compromise, that it does not satisfy anyone fully and thus leaves the EU open to attacks. A democratic deficit debate grounded in an input approach that does not fit the ‘output’ governing model of the EU will be infinite and attempts to reconstruct the EU in those terms might very well undermine it. Democracy in the EU has to be approached from the appropriate output policy-politics point of departure, and for this to happen we suggest moving past old democratic concepts or shifting the focus from democracy to legitimacy, thereby directly drawing into the debate a distinction between input, throughput and output. There are a number of ways in which legitimacy can be pursued in practical terms from an output point of departure, but as noted, legitimacy of an output system is something entirely different and not comparable to that of an input system.

Notes

1. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52001DC0428:EN:NOT>
2. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:0010:0041:EN:PDF>
3. <http://www.usconstitution.net/const.html#Preamble>.
4. <https://petitions.whitehouse.gov/>.
5. http://www.nj.com/politics/index.ssf/2013/01/presidential_inauguration_2013.html

6. <http://eurex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:0010:0010:EN:PDF>
7. http://europa.eu/lisbon_treaty/take/index_en.htm
8. http://ec.europa.eu/information_society/activities/roaming/index_en.htm

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